

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON
PENDLETON DIVISION

CHEYANNE KINLEY,

Plaintiff,

v.

No. 2:20-cv-00937-SU

RAY KLEIN, INC.,

OPINION AND ORDER

Defendant.

MOSMAN, J.,

On November 23, 2020, Magistrate Judge Patricia Sullivan issued her Findings and Recommendation (F. & R.) [ECF 8]. Judge Sullivan recommended that I grant Defendant's Motion to Dismiss [ECF 5] and dismiss this case with leave to amend. No objections were filed. Upon review, I agree with Judge Sullivan and DISMISS this case without prejudice and with leave to amend.

DISCUSSION

The magistrate judge makes only recommendations to the court, to which any party may file written objections. The court is not bound by the recommendations of the magistrate judge, but retains responsibility for making the final determination. The court is generally required to make a de novo determination regarding those portions of the report or specified findings or recommendation as to which an objection is made. 28 U.S.C. § 636(b)(1)(C). However, the court

is not required to review, de novo or under any other standard, the factual or legal conclusions of the magistrate judge as to those portions of the F. & R. to which no objections are addressed. *See Thomas v. Arn*, 474 U.S. 140, 149 (1985); *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003). While the level of scrutiny under which I am required to review the F. & R. depends on whether or not objections have been filed, in either case, I am free to accept, reject, or modify any part of the F. & R. 28 U.S.C. § 636(b)(1)(C).

CONCLUSION

Upon review, I agree with Judge Sullivan's findings and recommendation, and I ADOPT the F. & R. [ECF 8] as my own opinion. I GRANT Defendant's Motion to Dismiss for Failure to State a Claim [ECF 5]. The case is DISMISSED with leave to amend. Plaintiff has until March 1, 2021, to file an amended complaint.

IT IS SO ORDERED.

DATED this 28 day of January, 2021.

Michael W. Mosman
MICHAEL W. MOSMAN
United States District Judge